

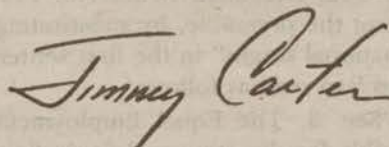
1-104. Executive Order No. 11480 of September 9, 1969, is amended by deleting "and the Chairman of the United States Civil Service Commission" in Section 4 and substituting therefor "Director of the Office of Personnel Management, and the Chairman of the Equal Employment Opportunity Commission".

1-105. Executive Order No. 11830 of January 9, 1975, is amended by deleting Section 2 and revising Section 1 to read as follows:

"In accord with Section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) and Section 4 of Reorganization Plan No. 1 of 1978 (43 FR 19808), the Interagency Committee on Handicapped Employees is enlarged and composed of the following, or their designees whose positions are Executive level IV or higher:

- (1) Secretary of Defense.
- (2) Secretary of Labor.
- (3) Secretary of Health, Education, and Welfare, Co-Chairman.
- (4) Director of the Office of Personnel Management.
- (5) Administrator of Veterans Affairs.
- (6) Administrator of General Services.
- (7) Chairman of the Federal Communications Commission.
- (8) Chairman of the Equal Employment Opportunity Commission, Co-Chairman.
- (9) Such other members as the President may designate."

1-106. This Order shall be effective on January 1, 1979.



THE WHITE HOUSE,
December 28, 1978.

[FR Doc. 78-36478 Filed 12-29-78; 2:24 pm]

[3195-01-M]

Executive Order 12107

December 28, 1978

Relating to the Civil Service Commission and Labor-Management in the Federal Service

By virtue of the authority vested in me as President by the Constitution and statutes of the United States of America, and by Section 403 of Reorganization Plan No. 2 of 1978 (43 FR 36037), it is hereby ordered as follows:

SECTION 1

IMPLEMENTATION OF REORGANIZATION PLAN NO. 2 OF 1978

1-1. *Office of Personnel Management.*

1-101. *Establishment of Office of Personnel Management.* The establishment of the Office of Personnel Management and of the positions of Director, Deputy Director, and Associate Directors of that Office, as provided in Sections 101 and 103 of Reorganization Plan No. 2 of 1978, shall be effective on January 1, 1979.

1-102. *Transfer of Functions.* Section 102 of Reorganization Plan No. 2 of 1978, transferring functions to the Director of the Office of Personnel Management, shall be effective on January 1, 1979.

1-2. *Merit Systems Protection Board.*

1-201. *Redesignation of Civil Service Commission.* The redesignation of the Civil Service Commission as the Merit Systems Protection Board and of the Commissioners as Members of the Board as provided in Section 201 of Reorganization Plan No. 2 of 1978 shall be effective on January 1, 1979.

1-202. *Functions of the Merit Systems Protection Board.* The functions of the Merit Systems Protection Board as provided in Section 202 and the savings provisions of Section 203 of Reorganization Plan No. 2 of 1978 shall be effective on January 1, 1979.

1-3. *The Special Counsel.*

1-301. *Establishment of the Office of Special Counsel.* The establishment of the Office of Special Counsel to the Merit Systems Protection Board as provided in Section 204(a) of Reorganization Plan No. 2 of 1978 shall be effective on January 1, 1979.

1-302. *Functions of the Special Counsel.* The transfer of functions provided for in Section 204(b) and the performance of functions set forth in Section 204(c)-(g) of Reorganization Plan No. 2 of 1978 shall be effective on January 1, 1979.

1-4. *The Federal Labor Relations Authority.*

1-401. *The Establishment of the Federal Labor Relations Authority and the Office of General Counsel.* The establishment of the Federal Labor Relations Authority as provided in Section 301 and of the Office of General Counsel of the Authority as provided in Section 302 of Reorganization Plan No. 2 of 1978 shall be effective on January 1, 1979.

1-402. *The Federal Service Impasses Panel.* The continuation of the Federal Service Impasses Panel established under Executive Order No. 11491, as amended, as a distinct organizational entity within the Federal Labor Relations Authority as provided in Section 303 of Reorganization Plan No. 2 of 1978, shall be effective on January 1, 1979.

1-403. *Functions of the Federal Labor Relations Authority, the General Counsel, and the Federal Service Impasses Panel.* The transfer of functions provided for in Section 304 of Reorganization Plan No. 2 of 1978 shall be effective on January 1, 1979.

1-5. *General.*

1-501. *General Effective Date.* All other provisions of Reorganization Plan No. 2 of 1978 shall be effective on January 1, 1979.

SECTION 2

REDESIGNATIONS, AMENDMENTS TO RULES AND EXECUTIVE ORDERS AND GENERAL PROVISIONS

2-1. *Redesignations.*

2-101. *Office of Personnel Management.* Each of the Executive orders, as amended, listed in this Section under subsections (a) and (b), as applicable, and any other order which relates to functions or areas of responsibility delegated to the Office of Personnel Management, is amended and revised by substituting the words "Office of Personnel Management" for the words "Civil Service Commission" or "United States Civil Service Commission"; by substituting the word "Office" for the word "Commission" wherever the word "Commission" is used as a reference to United States Civil Service Commission; and by substituting the words "Director, Office of Personnel Management" for the words "Chairman, Civil Service Commission", "Chairman, United States Civil Service Commission", "Commissioners" or "Commissioner" wherever they appear.

(a) Executive orders relating to the Civil Service Rules, ethics and other matters of Presidential interest.

Executive Orders Numbered

8743

10577, as amended, except for

Rules IV and V, as amended in this order,

10641

10717

10927

11183

11222

11315

11451

11570

11639

11648

11721
11935
12004
12014
12043

(b) Other Executive orders relating to Federal Personnel Management, and membership on Councils, Boards, and Committees.

Executive Orders Numbered

8744
9230
9712
9830
9932
9961
10000
10242
10422
10450
10459
10530
10549
10550
10552
10556
10647
10763
10774, except for Section 3(e)
10804
10826
10880
10903
10973
10982
11103
11171
11203
11219
11228
11264
11348
11355
11422
11434
11438
11490
11512
11521
11552
11561
11579
11589
11603

11609

11636

11639

11744

11817

11890

11895

11899

11938

11955

12008

12015

12027

12049

12067

12070

12089

12105

2-102, *Merit Systems Protection Board*. The provisions of Section 3(e) of Executive Order No. 10774 and Executive Order No. 11787, are hereby amended and revised by substituting the words "Merit Systems Protection Board" for the words "Civil Service Commission" or "Commission" when used as a reference to the Civil Service Commission wherever such words appear.

2-103. *Amending the Civil Service Rules*. Section 101 of Executive Order No. 10577, as amended, is further amended by substituting for Rule II—Appointment Through the Competitive System, a new Sec. 2.4 as follows:

"Sec. 2.4. *Probationary period*. Persons selected from registers of eligibles for career or career-conditional appointment and employees promoted, transferred, or otherwise assigned, for the first time, to supervisory or managerial positions shall be required to serve a probationary period under terms and conditions prescribed by the Office.";

by deleting the last sentence under Rule IV—Prohibited Practices, Sec. 4.3; and

by substituting for Rule V—Regulations, Investigations, and Enforcement, a new Rule V as follows:

"RULE V—REGULATIONS, INVESTIGATIONS, EVALUATION, AND ENFORCEMENT"

"Sec. 5.1. *Civil Service Regulations*. The Director, Office of Personnel Management, shall promulgate and enforce regulations necessary to carry out the provisions of the Civil Service Act and the Veterans' Preference Act, as reenacted in Title 5, United States Code, the Civil Service Rules, and all other statutes and Executive orders imposing responsibilities on the Office. The Director is authorized, whenever there are practical difficulties and unnecessary hardships in complying with the strict letter of the regulation, to grant a variation from the strict letter of the regulation if such a variation is within the spirit of the regulations, and the efficiency of the Government and the integrity of the competitive service are protected and promoted. Whenever a variation is granted the Director shall note the official record to show: (1) the particular practical difficulty or hardship involved, (2) what is permitted in place of what is required by regulation, (3) the circumstances which protect or promote the efficiency of the Government and the integrity of the competitive service, and (4) a statement limiting the application of the variation to the continuation of the conditions which gave rise to it. Like variations shall be granted whenever like conditions exist. All such decisions and information concerning variations noted in the official record shall be published promptly

in a Federal Personnel Manual, Letter or Bulletin and in the Director's next annual report.

"Sec. 5.2. *Investigation and Evaluations.* The Director may secure effective implementation of the civil service laws, rules, and regulations, and all Executive orders imposing responsibilities on the Office by:

(a) Investigating the qualifications and suitability of applicants for positions in the competitive service. The Director may require appointments to be made subject to investigation to enable the Director to determine, after appointment, that the requirements of law or the civil service rules and regulations have been met.

(b) Evaluating the effectiveness of: (1) personnel policies, programs, and operations of Executive and other Federal agencies subject to the jurisdiction of the Office, including their effectiveness with regard to merit selection and employee development; (2) agency compliance with and enforcement of applicable laws, rules, regulations and office directives; and (3) agency personnel management evaluation systems.

(c) Investigating, or directing an agency to investigate and report on, apparent violations of applicable laws, rules, regulations, or directives requiring corrective action, found in the course of an evaluation.

(d) Requiring agencies to report, in a manner and at times as the Director may prescribe, personnel information the Director requests relating to civilian employees in the Executive branch of the Government, as defined by Section 311 of the Civil Service Reform Act of 1978, including positions and officers and employees in the competitive, excepted and Senior Executive services, whether permanent, career-conditional, temporary or emergency.

"Sec. 5.3. *Enforcement.*

(a) The Director is authorized to ensure enforcement of the civil service laws, rules, and regulations, and all applicable Executive orders, by:

(1) Instructing an agency to separate or take other action against an employee serving an appointment subject to investigation when the Director finds that the employee is disqualified for Federal employment. Where the employee or the agency appeals the Director's finding that a separation or other action is necessary, the Director may instruct the agency as to whether or not the employee should remain on duty and continue to receive pay pending adjudication of the appeal: *Provided*, That when an agency separates or takes other action against an employee pursuant to the Director's instructions, and the Director, on the basis of new evidence, subsequently reverses the initial decision as to the employee's qualifications and suitability, the agency shall, upon request of the Director, restore the employee to duty or otherwise reverse any action taken.

(2) Reporting the results of evaluation or investigations to the head of the agency concerned with instructions for any corrective action necessary, including cancellation of personnel actions where appropriate. The Director's findings resulting from evaluations or investigations are binding unless changed as a result of agency evidence and arguments against them. If, during the course of any evaluation or investigation under this Section, the Director finds evidence of matters which come within the investigative and prosecutorial jurisdiction of the Special Counsel of the Merit Systems Protection Board, the Director shall refer this evidence to the Special Counsel for appropriate disposition.

(b) Whenever the Director issues specific instructions as to separation or other corrective action with regard to an employee, including cancellation of a personnel action, the head of the agency concerned shall comply with the Director's instructions.

(c) If the agency head fails to comply with the specific instructions of the Director as to separation or other corrective action with regard to an employee, including cancellation of a personnel action, the Director may certify to the Comptroller General of the United States the agency's failure to act together with such additional information as the Comptroller General may require, and shall furnish a copy of such certification to the head of the agency concerned. The individual with respect to whom such separation or other corrective action was instructed shall be entitled thereafter to no pay or only to such pay as appropriate to effectuate the Director's instructions.

"Sec. 5.4 *Information and Testimony*. When required by the Office, the Merit Systems Protection Board, or the Special Counsel of the Merit Systems Protection Board, or by authorized representatives of these bodies, agencies shall make available to them, or to their authorized representatives, employees to testify in regard to matters inquired of under the civil service laws, rules, and regulations, and records pertinent to these matters. All such employees, and all applicants or eligibles for positions covered by these rules, shall give to the Office, the Merit Systems Protection Board, the Special Counsel, or to their authorized representatives, all information, testimony, documents, and material in regard to the above matters, the disclosure of which is not otherwise prohibited by law or regulation. These employees, applicants, and eligibles shall sign testimony given under oath or affirmation before an officer authorized by law to administer oaths. Employees are performing official duty when testifying or providing evidence pursuant to this section.

2-104. *Effectiveness of Rule Changes*. The amendments to rules shall be effective on January 1, 1979, to the extent provided by law on that date.

2-2. *Revocation of Executive Orders and Delegation of Functions*.

2-201. *Revocation of Executive Orders and Delegation of Functions to the Director*. Executive Orders numbered 10540 and 10561 are revoked and the authority vested in the President by Section 202(c)(1)(C) of the Annual Sick Leave Act of 1951, as amended, and the authority of the President, pursuant to the Civil Service Act of January 16, 1883, to designate official personnel folders in government agencies as records of the Office of Personnel Management and to prescribe regulations relating to the establishment, maintenance and transfers of official personnel folders, are delegated to the Director of the Office of Personnel Management. Any rules, regulations, directives, instructions or other actions taken pursuant to the authority delegated to the Director of the Office of Personnel Management shall remain in effect until amended, modified, or revoked pursuant to the delegations made by this Order.

2-202. *Savings Provision*. All personnel actions and decisions affecting employees or applicants for employment made on or before January 11, 1979 shall continue to be governed by the applicable Executive order, and the rules and regulations implementing that Order, to the same extent as if that Executive order had not been revoked effective January 11, 1979 unless amended, modified or revoked pursuant to this Order.

2-3. *Labor Management Relations in the Federal Service*.

2-301. *Labor Management Relations*. Executive Order No. 11491 of October 29, 1969, as amended by Executive Orders numbered 11616, 11636, 11838, 11901, and 12027, relating to labor-management relations in the Federal service, is further amended as follows:

1. Subsections (g), (h) and (i) of Section 2 are amended and a new subsection (j) is added to read as follows:

"(g) 'Authority' means the Federal Labor Relations Authority;

"(h) 'Panel' means the Federal Service Impasses Panel;

"(i) 'Assistant Secretary' means the Assistant Secretary of Labor for Labor Management Relations; and

"(j) 'General Counsel' means the General Counsel of the Authority."

2. Section 3(b) is amended—

(a) by substituting for paragraph (6) the following:

"(6) The Tennessee Valley Authority; or"; and

(b) by adding the following:

"(7) Personnel of the Federal Labor Relations Authority (including the Office of the General Counsel and the Federal Service Impasses Panel)."

3. Section (d) is amended to read as follows:

"(d) Employees engaged in administering a labor-management relations law or this Order who are otherwise authorized by this Order to be represented by a labor organization shall not be represented by a labor organization which also represents other groups of employees under the law or this Order, or which is affiliated directly or indirectly with an organization which represents such a group of employees."

4. Section 4 is amended to read as follows:

"Sec. 4. *Powers and Duties of the Federal Labor Relations Authority.*

"(a) [Revoked].

"(b) The Authority shall administer and interpret this Order, decide major policy issues, and prescribe regulations.

"(c) The Authority shall, subject to its regulations:

(1) decide questions as to the appropriate unit for the purpose of exclusive recognition and related issues submitted for its considerations;

(2) supervise elections to determine whether a labor organization is the choice of a majority of the employees in an appropriate unit as their exclusive representative, and certify the results;

(3) decide questions as to the eligibility of labor organizations for national consultation rights;

(4) decide unfair labor practice complaints; and

(5) decide questions as to whether a grievance is subject to a negotiated grievance procedure or subject to arbitration under an agreement as provided in Section 13(d) of this Order.

"(d) The Authority may consider, subject to its regulations:

(1) appeals on negotiability issues as provided in Section 11(c) of this Order;

(2) exceptions to arbitration awards;

(3) appeals from decisions of the Assistant Secretary of Labor for Labor Management Relations issued pursuant to Section 6(b) this Order; and

(4) other matters it deems appropriate to assure the effectuation of the purposes of this Order.

"(e) In any matters arising under subsection (c) and (d)(3) of this Section, the Authority may require an agency or a labor organization to cease and desist from violations of this Order and require it to take such affirmative action as the Authority considers appropriate to effectuate the policies of this Order.

"(f) In performing the duties imposed on it by this Section, the Authority may request and use the services and assistance of employees of other agencies in accordance with Section 1 of the Act of March 4, 1915 (38 Stat. 1084, as amended; 31 U.S.C. 686)."

5. The caption of Section 5 is amended to read as follows:

"Sec. 5. *Powers and Duties of the Federal Service Impasses Panel.*"

6. Section 5(a) is amended:

(a) by substituting the words "a distinct organizational entity within the Authority" for the words "an agency within the Council" in the first sentence; and

(b) by substituting the word "Authority" for the word "Council" in the third sentence.

7. Section 6 is amended to read as follows:

"Sec. 6. *Powers and Duties of the Office of the General Counsel and the Assistant Secretary of Labor for Labor-Management Relations.*

"(a) The General Counsel is authorized, upon direction by the Authority, to:

(1) investigate complaints of violations of Section 19 of this Order;

(2) make final decisions as to whether to issue unfair labor practice complaints and prosecute such complaints before the Authority;

(3) direct and supervise all employees in the Office of General Counsel, including employees of the General Counsel in the regional office of the Authority;

(4) perform such other duties as the Authority may prescribe; and

(5) prescribe regulations needed to administer his functions under this Order.

"(b) The Assistant Secretary shall:

(1) decide alleged violations of the standards of conduct for labor organizations, established in Section 18 of this Order; and

(2) prescribe regulations needed to administer his functions under this Order.

"(c) In any matter arising under paragraph (b) of this Section, the Assistant Secretary may require a labor organization to cease and desist from violations of this Order and require it to take such affirmative action as he considers appropriate to effectuate the policies of this Order.

"(d) In performing the duties imposed on them by this Section, the General Counsel and the Assistant Secretary may request and use the services and assistance of employees of other agencies in accordance with Section 1 of the Act of March 4, 1915 (38 Stat. 1084, as amended; 31 U.S.C. 686)."

8. Section 9 is amended:

(a) by substituting the word "Authority" for the word "Council" in the first sentence of subsection (a); and

(b) by substituting the word "Authority" for the words "Assistant Secretary" in subsection (c).

9. Section 10 is amended:

(a) by substituting the word "Authority" for the words "Assistant Secretary" in the last sentence of subsection (b); and

(b) by substituting the word "Authority" for the words "Assistant Secretary" and the word "it" for the word "him", in the first sentence of subsection (d).

10. Section 11 is amended:

(a) by substituting the word "Authority" for the word "Council" in the first sentence of subsection (a); and

(b) by substituting the word "Authority" for the word "Council" in paragraph (4) of subsection (c).

11. Section 11(d) is revoked.

12. Section 13 is amended:

(a) by substituting the word "Authority" for the word "Council" in the third sentence of subsection (b); and

(b) by substituting the word "Authority" for the words "Assistant Secretary" in the first and second sentence of subsection (d).

13. Section 19(d) is amended by substituting the word "Authority" for the words "Assistant Secretary" in the last sentence.

14. Section 21(a) is amended by substituting the words "Office of Personnel Management" for the words "Civil Service Commission" in the second sentence.

15. Section 22 is amended:

(a) by substituting the words "Office of Personnel Management" for the words "Civil Service Commission" in the first sentence and

(b) by substituting the words "Merit Systems Protection Board" for the words "Civil Service Commission" in the second and third sentences.

16. Section 25(a) is amended:

(a) by substituting the words "Office of Personnel Management" for the words "Civil Service Commission" in the first, second and third sentences; and

(b) by substituting the word "Authority" for the word "Council" in the third sentence.

17. Section 25(b) is amended by substituting the words "Office of Personnel Management" for the words "Department of Labor and Civil Service Commission."

2-4. General Provisions.

2-401. *Study and Report Provisions.* The Director of the Office of Personnel Management is directed to conduct a study of Executive orders listed in Section 2-101(a) and (b) and to coordinate the study with such other agencies as may be named in or affected by these orders. The Director of Personnel Management and the Director of the Office of Management and Budget are directed to submit a report on or before July 1, 1981 to the President concerning the performance of functions specified in these Executive orders and any other Executive orders affecting the functions or responsibilities of the Office of Personnel Management. The report shall contain specific detailed recommendations for the continuation, modification, revision or revocation of each Executive order.

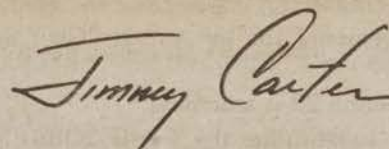
2-402. *Continuing Effect of this Order.* Except as required by the Civil Service Reform Act of 1978 as its provisions become effective, in accord with Section 7135 of Title 5, United States Code, as amended, and in accord with Section 902(a) of that Act, the provisions of this Order shall continue in effect, according to its terms, until modified, terminated or suspended.

2-403. Transfers and Determinations.

(a) The records, property, personnel and positions, and unexpended balances of appropriations or funds related to Civil Service Commission functions reassigned by this Order that are available, or to be made available, and necessary to finance or discharge the reassigned functions are transferred to the Director of the Office of Personnel Management, the Federal Labor Relations Authority, or the Federal Service Impasses Panel, as appropriate.

(b) The Director of the Office of Management and Budget shall make such determinations, issue such Orders and take all actions necessary or appropriate to effectuate the transfers or reassignments provided by this Order, including the transfer of funds, records, property and personnel.

2-404. *Effective Date.* Except as otherwise specifically provided in this Order, this Order shall be effective on January 1, 1979.

A handwritten signature in dark ink, reading "Jimmy Carter". The signature is fluid and cursive, with the first name "Jimmy" and the last name "Carter" clearly distinguishable.

THE WHITE HOUSE,
December 28, 1978.

[FR Doc. 78-36479 Filed 12-29-78; 2:25 pm]

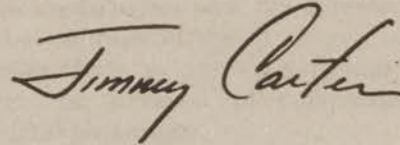
[3195-01-M]

Executive Order 12108

December 28, 1978

Employee Retirement Income Security Act Transfers

By the authority vested in me as President of the United States of America by Section 109 of Reorganization Plan No. 4 of 1978 (43 FR 47713), it is hereby ordered that the provisions of Reorganization Plan No. 4 of 1978 shall be effective on Sunday, December 31, 1978.



THE WHITE HOUSE,
December 28, 1978.

[FR Doc. 78-36480 Filed 12-29-78; 2:26 pm]

December 10, 1951

Mr. J. Edgar Hoover

Director, Federal Bureau of Investigation

The following report is being furnished to you in accordance with the provisions of the Espionage Laws, Title 18, U.S.C., Sections 793 and 794, and the provisions of the Espionage Laws, Title 18, U.S.C., Sections 793 and 794, and the provisions of the Espionage Laws, Title 18, U.S.C., Sections 793 and 794.

Handwritten signature

Very truly yours,
J. Edgar Hoover

(Enclosure)

[3195-01-M]

Executive Order 12109

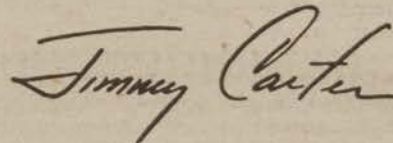
December 28, 1978

Federal Physicians Comparability Allowance

By the authority vested in me as President of the United States of America by Section 5948 of Title 5 and Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

1-101. The Director of the Office of Personnel Management is hereby designated and empowered to exercise, in consultation with the Director of the Office of Management and Budget, the authority of the President under Section 5948 of Title 5 of the United States Code, to prescribe regulations, criteria, and conditions with regard to the payment of comparability allowances to recruit and retain certain Federal physicians.

1-102. Until the Office of Personnel Management is established (on or before January 1, 1979), pursuant to Reorganization Plan No. 2 of 1978 (43 FR 36037), the Civil Service Commission shall exercise the authority delegated under this Order to the Director of the Office of Personnel Management.



THE WHITE HOUSE,
December 28, 1978.

[FR Doc 78-36481 Filed 12-29-78; 2:27 pm]